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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,679	07/02/2001	Kazuhiro Haneda	P/3541-13	1456
2352	7590	09/01/2005	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,679

Applicant(s)

HANEDA, KAZUHIRO

Examiner

Andy S. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-14 and 16-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 8-14, and 16-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/23/05 has been entered.

Response to Arguments

2. Applicant's arguments filed to claims 1, 8-14, 16-38 as filed on 6/23/05 have been fully considered but they are not persuasive.

3. The Applicant presents one argument contending the Examiner's pending rejection of previously presented claims 1, 8-14, 16-38 under 35 U.S.C. 102(e) as being anticipated by Zhou et al., (hereinafter referred to as "Zhou"), said arguments now directed towards establishing the patentability of claims 1, and 8-36. However, after considering the argument presented and further scrutinizing the Zhou reference, the Examiner respectfully disagrees and maintains the basis of the Zhou reference for the rejection that follows.

4. After going into a lengthy discourse of the definition of the term "object" as in claims (Remarks of 6/23/05: page 11, lines 1-35; page 12, lines 1-7), and further summarizing the Zhou reference (Remarks of 6/23/05: page 12, lines 29-36; page 13, lines 1-2 and 12-28), the Applicants that Zhou fails to disclose "extracting means for extracting information relating to at least one object comprising a virtually perceivable portion of the moving image (Remarks of

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6/23/05: page 12, lines 13-17; page 13, lines 3-12). The Examiner respectfully disagrees. It is clear to the Examiner that the Applicant's failure to correlate the repeated cited portions of Zhou to the "object" limitation in the claims indicates a lack of knowledge concerning the OSD disclosure contained therein. The OSD data is used to present extracted objects of a moving image with corresponding extracted information in a format for video blending so that the object can be overlaid over a corresponding background (Zhou: column 41, lines 60-67; column 42, 1-5). As such, data in the OSD data (Zhou: column 42, lines 19-25: "the size, shape, and color of the shape..." of the object) corresponds to the claimed "object" limitation as in the claims. Additionally, it is noted that the setting the imaging condition for capturing a still image of the object would be met by using the extracted OSD attribute information characterizing the object. And the means for capturing the still image would be based on the set imaging conditions from the OSD attribute data. Accordingly, the Examiner maintains the Zhou addresses the "object" limitation.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, and 8-14, 16-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhou et al., (hereinafter referred to as "Zhou").

Zhou discloses an image capturing device for capturing an image, comprising: a compressing section compressing a captured moving image (Zhou: column 3, lines 25-30); an extracting section for extracting information relating to at least one object included in the moving image from information obtained in the process of compressing the moving image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 38-52); a CPU for setting an imaging condition for capturing a still image of the object based on the extracted information relating to the object (Zhou: column 42, lines 42-50); a camera for capturing a still image of the object based on the set imaging condition (Zhou: column 4, lines 10-23), as in claim 1.

Regarding claims 8-9, Zhou wherein the CPU sets an image processing with respect to an object of the captured still image based on the extracted information relating to the object (Zhou: column 3, lines 60-67; column 4, lines 1-10), as in the claims.

Regarding claim 10, Zhou further a compressing and coding section for compressing and coding the captured still image (Zhou: column 4, lines 17-23).

Regarding claims 11-12, Zhou further discloses displaying section for displaying a captured image (Zhou: column 14, lines 14-50), as in the claims.

Regarding claim 13, Zhou further discloses wherein the CPU sets an imaging condition relating to the object designated from the moving image displaying the displaying section (Zhou: column 41, lines 20-25).

Regarding claim 14, Zhou discloses that the displaying means further displays markers corresponding to objects (Zhou: column 41, lines 44-45), and wherein the selecting means selects an object corresponding to a desired marker designated by a photographer from the markers displayed in the displaying means (Zhou: column 42, lines 19-26), as in the claim.

Regarding claims 16-17, Zhou discloses wherein the CPU actuates an image processing with respect to an object of the captured still image based on information relating to the object designated from the moving image displaying in the displaying (Zhou: column 42, lines 33-40), as in the claims.

Regarding claim 18, Zhou discloses imaging condition for capturing a still image of the object differs from an imaging condition for capturing the moving image (Zhou: column 4, lines 1-10), as in the claim.

Regarding claims 19-20, Zhou discloses recording section for recording at least one of data of the still image and data of the compressed moving image on a predetermined recording medium (Zhou: column 3, lines 45-55; column 4, lines 45-50), as in the claims.

Zhou discloses an image capturing method for capturing an image (Zhou: column 51, lines 13-18), comprising: compressing a captured moving image (Zhou: column 3, lines 25-30); extracting information relating to at least one object included in the moving image from

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information obtained in the process of compressing the moving image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 38-52); setting an imaging condition for capturing a still image of the object based on the extracted information relating to the object in the moving image (Zhou: column 42, lines 33-40); capturing a still image of the object based on the set imaging condition (Zhou: column 4, lines 10-23), as in claim 21.

Regarding claim 22, Zhou discloses further comprising setting an image processing with respect to an object of the captured still image based on extracted information relating to the object (Zhou: column 3, lines 60-67; column 4, lines 1-10), as in the claim.

Zhou discloses an image capturing device for capturing an image, comprising: a compressing section for compressing a captured moving image (Zhou: column 3, lines 25-30); an extracting section for extracting information relating to at least one object included in the moving image from information obtained in the process of compressing the image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 38-52); a camera for capturing a still image of the object (Zhou: column 4, lines 10-23), a CPU (Zhou: column 42, lines 42-50) for setting an image processing with respect to the captured still image based on extracted information relating to the object in the moving image (Zhou: column 41, lines 33-57), as in claim 23.

Regarding claim 24, Zhou discloses a processing circuit for performing the image processing which has been set with respect to the object of the still image (Zhou: column 3, lines 60-67; column 4, lines 1-10), as in the claim.

Regarding claim 25, Zhou further discloses a compressing and coding section for compressing and coding the captured still image (Zhou: column 4, lines 17-23).

Regarding claims 26-27, Zhou further discloses displaying section for displaying a captured image (Zhou: column 14, lines 14-50), as in the claims.

Regarding claim 28, Zhou the CPU (Zhou: column 42, lines 40-50) sets the image processing with respect to the object designated from the moving image displayed in the displaying means (Zhou: column 41, lines 20-25).

Regarding claim 29, Zhou discloses that the displaying section further displays markers corresponding to objects (Zhou: column 41, lines 44-45), and wherein the CPU sets the image processing with respect to the object selects an object corresponding to a designated marker (Zhou: column 42, lines 19-26), as in the claim.

Regarding claim 30, Zhou discloses wherein the CPU sets a kind of image processing for each object (Zhou: column 42, lines 33-40), as in the claim.

Regarding claim 31, Zhou discloses an image processing with respect to the still image includes a processing of discarding signals (Zhou: column 34, lines 42-52) of images other the object extracted by the extracted (Zhou: column 6, lines 1-50; column 9, lines 30-55), as in the claim.

Regarding claim 32, Zhou further wherein the image processing with respect to the still image includes a blur processing (Zhou: column 4, lines 10-20; column 9, lines 20-45) with respect to the image other than the object extracted by the extracted section (Zhou: column 42, lines 33-40), as in the claims.

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Regarding claim 33, Zhou the image processing with respect to a still image includes a correction processing using a predetermined tone curve with respect to image data of the object extracted by the extracted section (Zhou: column 26, lines 20-60), as in the claim.

Regarding claims 34-35, Zhou discloses recording section for recording at least one of data of the still image and data of the compressed moving image on a predetermined recording medium (Zhou: column 3, lines 45-55; column 4, lines 45-50), as in the claims.

Zhou discloses an image capturing method for capturing an image (Zhou: column 51, lines 13-20), comprising: compressing a captured moving image (Zhou: column 3, lines 25-30); extracting information relating to at least one object included in the moving image from information obtained in the process of compressing the moving image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 40-52); setting an image processing with respect to the captured still image based on extracted information relating to the object in the moving image (Zhou: column 41, lines 33-57; column 42, lines 33-40), as in claim 36.

Zhou discloses an image capturing device for capturing an image, comprising: means for compressing a captured moving image (Zhou: column 3, lines 25-30); means for extracting information relating to at least one object included in the moving image from information obtained in the process of compressing the moving image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 38-52); a means for setting an imaging condition for capturing a still image of the object based on the extracted information relating to the object

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(Zhou: column 42, lines 42-50); a means for capturing a still image of the object based on the set imaging condition (Zhou: column 4, lines 10-23), as in claim 37.

Zhou discloses an image capturing device for capturing an image, comprising: a means for compressing a captured moving image (Zhou: column 3, lines 25-30); means for extracting information relating to at least one object included in the moving image from information obtained in the process of compressing the moving image (Zhou: column 40, lines 35-67; column 41, lines 20-47; column 42, lines 55-60) by utilizing interframe correlation information in the moving image (Zhou: column 34, lines 38-52); means for capturing a still image of the object based on the set imaging condition (Zhou: column 4, lines 10-23); a means for setting an imaging condition for capturing a still image of the object based on the extracted information relating to the object (Zhou: column 42, lines 42-50); as in claim 38.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad S. Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao
Primary Examiner
Art Unit 2613

asr
August 31, 2005

ANDY RAO
PRIMARY EXAMINER

